

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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EVELYN GAINES, individually and as mother and  
natural guardian of TYLER GAINES,  
Plaintiff,

ECF Case

FIRST AMENDED  
ANSWER and  
COUNTERCLAIM

v.

08-CV-4229  
(RMB)

DISTRICT COUNCIL 1707 HEALTH AND INSURANCE  
FUND, DISTRICT COUNCIL 1707 HEALTH and  
BENEFIT FUND and THE BOARD OF TRUSTEES  
OF THE DISTRICT COUNCIL 1707 HEALTH AND  
INSURANCE FUND,

Defendants.  
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Defendants, **District Council 1707 Health and Insurance Fund, District  
Council 1707 Health and Benefit Fund and the Board of Trustees of the District  
Council 1707 Health and Insurance Fund**, in response to Plaintiff's complaint, allege  
as follows:

1. Deny the allegations contained in paragraph 1 of the complaint, except admit that  
"District Council 1707 Health and Insurance Fund" was the name of District Council  
1707 Health and Benefit Fund prior to September 16, 2003\*, and that said Fund had  
offices located in New York City, New York; and further admit that said Fund was a  
"self-funded"\*\* employee welfare benefit plan.

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\* all references to the District Council 1707 Health and *Insurance* Fund in the complaint  
are answered as if they were directed to the District Council 1707 Health and *Benefit*  
Fund to reflect the fact that the Fund's name was changed in September 2003 to the  
District Council 1707 Health and *Benefit* Fund, and that Plaintiff was only a participant  
in the Health and Benefit Fund.

\*\*the term "self-funded" denotes a plan that does not utilize insurance for payment of  
claims